



Senate Bill No. 1219

Public Act No. 05-46

**AN ACT CONCERNING CONSUMER CREDIT, CHECK CASHING
AND MONEY TRANSMISSION.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 36a-53b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

No licensee or registrant shall, in connection with the activity for which such person is licensed or registered: (1) Employ any device, scheme or artifice to defraud; (2) make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or (3) engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

Sec. 2. Subdivision (1) of subsection (a) of section 36a-491 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(a) (1) Each applicant for a first mortgage lender license or a first mortgage correspondent lender license shall, at the time of making such application, pay to the commissioner a license fee of eight hundred dollars, provided if such application is filed not earlier than

Senate Bill No. 1219

one year before the date such license will expire, the applicant shall pay to the commissioner a license fee of four hundred dollars. Each applicant for a first mortgage broker license shall, at the time of making such application, pay to the commissioner a license fee of four hundred dollars, provided if such application is filed not earlier than one year before the date such license will expire, the applicant shall pay to the commissioner a license fee of two hundred dollars. Each license issued pursuant to section 36a-489 shall expire at the close of business on September thirtieth of the even-numbered year following its issuance unless such license is renewed. Such licensee shall, on or before September first of the year in which the license expires, pay to the commissioner the appropriate license fee as provided in this section for the succeeding two years, commencing October first, together with such renewal application as the commissioner may require. Any renewal application filed with the commissioner after September first shall be accompanied by a one-hundred-dollar late fee and any such filing shall be deemed to be timely and sufficient for purposes of subsection (b) of section 4-182. Whenever an application for a license, other than a renewal application, is filed under sections 36a-485 to 36a-498a, inclusive, as amended by this act, by any person who was a licensee under said sections and whose license expired less than sixty days prior to the date such application was filed, such application shall be accompanied by a one-hundred-dollar processing fee in addition to the application fee.

Sec. 3. Subsection (b) of section 36a-494 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(b) Whenever it appears to the commissioner that any person has violated, is violating or is about to violate any of the provisions of sections 36a-485 to 36a-498a, inclusive, as amended by this act, or any regulation adopted pursuant thereto, or any licensee or registrant has

Senate Bill No. 1219

failed to perform any agreement with a borrower, committed any fraud, misappropriated funds or misrepresented, concealed, suppressed, intentionally omitted or otherwise intentionally failed to disclose any of the material particulars of any mortgage loan transaction, including disclosures required by subdivision (6) of subsection (a) of section 36a-493, or part III of chapter 669 or regulations adopted pursuant thereto, to anyone entitled to such information, the commissioner may take action against such person, [or] licensee or registrant in accordance with sections 36a-50 and 36a-52.

Sec. 4. Subdivision (1) of subsection (a) of section 36a-514 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(a) (1) Each applicant for a secondary mortgage lender license or a secondary mortgage correspondent lender license, at the time of making such application, shall pay to the commissioner a license fee of eight hundred dollars, provided if such application is filed not earlier than one year before the date such license will expire, the applicant shall pay to the commissioner a license fee of four hundred dollars, and if such application is for renewal of a license that expires on June 30, 2003, the applicant shall pay to the commissioner a license fee of five hundred dollars. Each applicant for a secondary mortgage broker license, at the time of making such application, shall pay to the commissioner a license fee of four hundred dollars, provided if such application is filed not earlier than one year before the date such license will expire, the applicant shall pay to the commissioner a license fee of two hundred dollars, and if such application is for renewal of a license that expires on June 30, 2003, the applicant shall pay to the commissioner a license fee of two hundred fifty dollars. Each license issued pursuant to this section shall expire at the close of business on September thirtieth of the even-numbered year following

Senate Bill No. 1219

its issuance unless such license is renewed. Each licensee shall, on or before September first of the year in which the license expires, or in the case of a license that expires on June 30, 2003, on or before June 1, 2003, file a renewal application and pay to the commissioner the appropriate license fee as provided in this section to renew the license. Any renewal application filed with the commissioner after September first, or in the case of a license that expires on June 30, 2003, after June 1, 2003, shall be accompanied by a one-hundred-dollar late fee and any such filing shall be deemed to be timely and sufficient for purposes of subsection (b) of section 4-182.

Sec. 5. Subsection (b) of section 36a-517 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(b) Whenever it appears to the commissioner that any person has violated, is violating or is about to violate any of the provisions of sections 36a-510 to 36a-524, inclusive, as amended by this act, or any licensee or registrant has failed to perform any agreement with a borrower, committed any fraud, misappropriated funds or misrepresented, concealed, suppressed, intentionally omitted or otherwise intentionally failed to disclose any of the material particulars of any mortgage loan transaction, including disclosures required by part III of chapter 669 or regulations adopted pursuant thereto, to anyone entitled to such information, the commissioner may take action against such person, [or] licensee or registrant in accordance with sections 36a-50 and 36a-52.

Sec. 6. Subsection (a) of section 36a-542 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(a) Each person licensed as a sales finance company may renew such license by filing with the commissioner on or before September

Senate Bill No. 1219

first of the year in which the license expires or, in the case of a license that expires on June 30, 2003, on or before June 1, 2003, a renewal application on a form prescribed by the commissioner under oath, together with such exhibits and other pertinent information as the commissioner may require. The license fee shall be eight hundred dollars, provided the license fee for renewal of a license that expires on June 30, 2003, shall be nine hundred dollars. Any renewal application filed with the commissioner under this section after September first, or in the case of a license that expires on June 30, 2003, after June 1, 2003, shall be accompanied by a one-hundred-dollar late fee and any such filing shall be deemed to be timely and sufficient for purposes of subsection (b) of section 4-182.

Sec. 7. Subsection (a) of section 36a-558 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(a) Each applicant for a small loan lender license, at the time of making such application, shall pay to the commissioner a license fee of eight hundred dollars, provided if such application is filed not earlier than one year before the date such license will expire, the applicant shall pay to the commissioner a license fee of four hundred dollars. Each such license shall expire at the close of business on September thirtieth of the odd-numbered year following its issuance, unless such license is renewed, provided any license that is renewed effective July 1, 2003, shall expire on September 30, 2005. Each licensee shall, on or before September first of the year in which the license expires, or in the case of a license that expires on June 30, 2003, on or before June 1, 2003, file a renewal application and pay to the commissioner a license fee of eight hundred dollars to renew the license, provided if such application is for renewal of a license that expires on June 30, 2003, the applicant shall pay the commissioner a license fee of nine hundred dollars. Any renewal application filed with the commissioner after

Senate Bill No. 1219

September first, or in the case of a license that expires on June 30, 2003, after June 1, 2003, shall be accompanied by a one-hundred-dollar late fee and any such filing shall be deemed to be timely and sufficient for purposes of subsection (b) of section 4-182. Whenever an application for a license, other than a renewal application, is filed under this section by any person who was a licensee and whose license expired less than sixty days prior to the date such application was filed, such application shall be accompanied by a one-hundred-dollar processing fee in addition to the application fee. Each applicant shall pay the expenses of any examination or investigation made under sections 36a-555 to 36a-573, inclusive.

Sec. 8. Subsection (d) of section 36a-581 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(d) A licensee shall not change the name or the location specified on its license unless, prior to such change in name or location, the licensee files an application with the commissioner [for change in location] accompanied by the applicable name change fee or location transfer fee specified in section 36a-582, as amended by this act, and receives the approval of the commissioner. A licensee of a limited facility shall not change its approved days and hours of operation unless, prior to any such change, the licensee files an application with and receives the approval of the commissioner.

Sec. 9. Section 36a-582 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(a) Each applicant for a check cashing license shall pay to the commissioner a nonrefundable initial application fee of one thousand dollars and a nonrefundable license fee of one hundred dollars for each location. Each licensee shall pay to the commissioner a nonrefundable (1) name change fee of one hundred dollars for each

Senate Bill No. 1219

application to change a name, and (2) location transfer fee of one hundred dollars for each application to transfer a location. Each license issued pursuant to section 36a-581, as amended by this act, shall expire at the close of business on June thirtieth of each year unless such license is renewed. Each licensee shall, on or before June twentieth of each year, pay to the commissioner a renewal application fee of seven hundred fifty dollars and a renewal license fee for each location of fifty dollars for the succeeding year, commencing July first.

(b) If the commissioner determines that a check filed with the commissioner to pay an application or license fee has been dishonored, the commissioner shall automatically suspend the license or approval or a renewal license that has been issued but is not yet effective. The commissioner shall give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew such license and an opportunity for a hearing on such actions in accordance with section 36a-51. [If the commissioner determines that a check filed with the commissioner to pay a location transfer fee has been dishonored, the commissioner shall automatically suspend the location transfer approval pending revocation of such approval by the commissioner and an opportunity for a hearing on such actions in accordance with section 36a-51.]

(c) Each applicant or licensee shall pay the expenses of any examination or other investigation under sections 36a-580 to 36a-589, inclusive, as amended by this act.

(d) No abatement of the application [.] or license [or location transfer] fee shall be made if the license is surrendered, cancelled, revoked or suspended prior to the expiration of the period for which it was issued.

Sec. 10. Subsection (b) of section 36a-587 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective*

Senate Bill No. 1219

October 1, 2005):

(b) Whenever it appears to the commissioner that any person has violated, is violating or is about to violate the provisions of sections 36a-580 to 36a-589, inclusive, as amended by this act, or any licensee or any owner, director, officer, member, partner, shareholder, trustee, employee or agent of such licensee has committed any fraud, engaged in dishonest activities or made any misrepresentation, the commissioner may take action against such person or licensee in accordance with [section] sections 36a-50 and 36a-52.

Sec. 11. Section 36a-598 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(a) Each application for an original or renewal license required under sections 36a-595 to 36a-610, inclusive, as amended by this act, shall be made in writing and under oath to the commissioner in such form as the commissioner may prescribe. The application shall include:

(1) The exact name of the applicant and, if incorporated, the date of incorporation and the state where incorporated;

(2) The complete address of the principal office from which the business is to be conducted, and of the office where the books and records of the applicant are maintained and to be maintained, including the street and number, if any, and the municipality and county of such offices;

(3) The complete name and address of each of the applicant's branches, subsidiaries, affiliates and agents and subagents, if any, engaging in this state in the business of selling or issuing Connecticut payment instruments, or engaging in the business of money transmission;

(4) The name, title, address and telephone number of the person to

Senate Bill No. 1219

whom notice of the commissioner's approval or disapproval of the application shall be sent and to whom any inquiries by the commissioner concerning the application shall be directed;

(5) The name and residence address of (A) the individual, if the applicant is an individual; (B) the partners, if the applicant is a partnership; (C) the directors, trustees, principal officers, and any shareholder owning ten per cent or more of each class of its securities, if the applicant is a corporation or association; or (D) the managers, if the applicant is a limited liability company, and sufficient information pertaining to the name and address, in a form acceptable to the commissioner, on such partners, directors, trustees, principal officers, managers, and any shareholder owning ten per cent or more of each class of its securities, as the commissioner deems necessary to make the findings under section 36a-600;

(6) The most recently audited unconsolidated financial statement of the applicant, including its balance sheet and receipts and disbursements for the preceding year, prepared by an independent certified public accountant acceptable to the commissioner;

(7) A list of the applicant's permissible investments, the book and market values of such investments, and the dollar amount of the applicant's aggregate outstanding payment instruments (A) as of the date of the financial statement filed in accordance with subdivision (6) of this subsection; and (B) as of a date no earlier than thirty business days prior to the filing of the application;

(8) The history of material litigation and criminal convictions for the five-year period prior to the date of the application of (A) the individual, if the applicant is an individual; (B) the partners, if the applicant is a partnership; (C) the directors, trustees, principal officers and any shareholder owning ten per cent or more of each class of its securities, if the applicant is a corporation or association; or (D) the

Senate Bill No. 1219

managers, if the applicant is a limited liability company, and sufficient information pertaining to the history of material litigation and criminal convictions, in a form acceptable to the commissioner, on such partners, directors, trustees, principal officers and any shareholder owning ten per cent or more of each class of its securities;

(9) (A) The surety bond required by subsection (a) of section 36a-602, if applicable;

(B) A list of the investments maintained in accordance with subsection (c) of section 36a-602, if applicable, and the book and market values of any such investments (i) as of the date of the financial statement filed in accordance with subdivision (6) of this subsection; and (ii) as of a date no earlier than thirty business days prior to the filing of the application;

(C) The commissioner may defer compliance with the provisions of this subdivision until after the commissioner rules on the application, but the commissioner shall not issue a license until an applicant complies with the provisions of this subdivision;

(10) A statement of whether the applicant will engage in the business of issuing money orders, travelers checks or electronic payment instruments or engage in the business of money transmission in this state;

(11) Any other information the commissioner may require.

(b) An applicant or licensee shall promptly notify the commissioner, in writing, of any change in the information provided in the application for license or most recent renewal of such license.

(c) A licensee shall not change the name specified on its license unless, prior to such change in name, the licensee files an application with the commissioner accompanied by the name change fee specified

Senate Bill No. 1219

in subsection (a) of section 36a-599, as amended by this act, and receives the approval of the commissioner.

Sec. 12. Subsection (a) of section 36a-599 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(a) Each application for an original license shall be accompanied by a nonrefundable investigation fee of five hundred dollars and a license fee of one thousand dollars. Each application for a renewal license shall be accompanied by a license fee of one thousand dollars. The license fee shall be refunded if the application for an original license is denied, the commissioner refuses to issue a renewal license or an application for a license or renewal license is withdrawn prior to issuance of a license or renewal license by the commissioner. Each licensee shall pay to the commissioner a nonrefundable name change fee of one hundred dollars for each application to change a name.

Sec. 13. Section 36a-657 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(a) The commissioner may suspend, revoke or refuse to renew any license, in accordance with the provisions of section 36a-51, for any reason which would be sufficient grounds for the commissioner to deny an application for a license under sections 36a-655 to 36a-665, inclusive, or if the commissioner finds that the licensee or any proprietor, director, officer, member, partner, shareholder, trustee, employee or agent of such licensee has done any of the following: (1) Made any material misstatement in the application; (2) committed any fraud or misappropriated funds; (3) violated any of the provisions of sections 36a-655 to 36a-665, inclusive, or any other law or regulation applicable to the conduct of its business; or (4) failed to perform any agreement with a debtor.

Senate Bill No. 1219

(b) Whenever it appears to the commissioner that any person has violated, is violating or is about to violate the provisions of sections 36a-655 to 36a-665, inclusive, or any licensee or any proprietor, director, officer, member, partner, shareholder, trustee, employee or agent of such licensee has committed any fraud, misappropriated funds or failed to perform any agreement with a debtor, the commissioner may take action against such person or licensee in accordance with sections 36a-50 and 36a-52.

Sec. 14. Section 36a-737 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(a) No financial institution and no federal bank or federal credit union shall discriminate, on a basis that is arbitrary or unsupported by a reasonable analysis of the lending risks associated with the applicant for a given loan or the condition of the property to secure it, in the granting, withholding, extending, modifying, renewing or in the fixing of the rates, terms, conditions or provisions of any home purchase loan, home improvement loan or other mortgage loan on one-to-four-family owner-occupied residential real property, solely because such property is located in a low-income or moderate-income neighborhood or geographical area, provided it shall not be a violation of this section if the home purchase loan, home improvement loan or other mortgage loan is made pursuant to a specific public or private program, the purpose of which is to increase the availability of home purchase loans, home improvement loans or other mortgage loans within a low-income or moderate-income neighborhood or geographical area in which such investment capital has generally been denied.

(b) If a member of any reserve component of the armed forces of the United States, as defined in section 27-103, or a member of the National Guard, is called into active duty after submitting an application to a financial institution, [or] federal bank or federal credit union for a home purchase loan, home improvement loan or other

Senate Bill No. 1219

mortgage loan on one-to-four-family owner-occupied residential real property and before the financial institution, [or] federal bank or federal credit union makes a determination on the application, such financial institution, [or] federal bank or federal credit union shall maintain the application on file for two years and two months after such member is called into active duty, if the member submits, not later than thirty days after being called into active duty, a written statement to the financial institution, [or] federal bank or federal credit union indicating that the member (1) has been called into active duty, and (2) requests that the application be maintained on file. If the applicant returns from active duty not later than two years after submitting an application under this section and submits a written statement to the financial institution, [or] federal bank or federal credit union not later than sixty days after being discharged from active duty verifying that there has been no material change in the applicant's income, assets, debts and employment, the financial institution, [or] federal bank or federal credit union shall finalize processing of the application in accordance with the same terms and conditions that it made available to the applicant at the time of application, provided the financial institution, [or] federal bank or federal credit union shall offer to the applicant any different terms and conditions that the financial institution, [or] federal bank or federal credit union is offering to the public at the time of the applicant's return from active duty.

Sec. 15. Subdivision (1) of subsection (b) of section 36a-801 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(b) (1) Any person desiring to act within this state as a consumer collection agency shall make a written application to the commissioner for such license in such form as the commissioner prescribes. Such application shall be accompanied by (A) a financial statement prepared by a certified public accountant or a public accountant, the accuracy of

Senate Bill No. 1219

which is sworn to under oath before a notary public by the proprietor, a general partner or a corporate officer or a member duly authorized to execute such documents, (B) a license fee of eight hundred dollars, or in the case of an initial application that is filed not earlier than one year before the date such license will expire, a license fee of four hundred dollars, and (C) an investigation fee of one hundred dollars. The commissioner shall cause to be made such inquiry and examination as to the qualifications of each such applicant as the commissioner deems necessary. Each applicant shall furnish satisfactory evidence to the commissioner that the applicant is a person of good moral character and is financially responsible. If the commissioner is satisfied that such applicant is in all respects properly qualified and trustworthy and that the granting of such license is not against the public interest, the commissioner may issue to such applicant a license, in such form as the commissioner may adopt, to act within this state as a consumer collection agency. Any such license issued by the commissioner shall expire at the close of business on September thirtieth of the odd-numbered year following its issuance, unless such license is renewed, provided any license that is renewed effective May 1, 2003, shall expire on September 30, 2005. The commissioner may renew such application, in the commissioner's discretion, [and] upon filing of a proper renewal application accompanied by a license fee of eight hundred dollars, or in the case of an application for renewal of a license that expires on April 30, 2003, a license fee of one thousand dollars, and satisfactory proof that such applicant at that time possesses the required qualifications for the license. Such renewal application shall be filed with the commissioner on or before September first of the year in which the license expires, or in the case of a license that expires on April 30, 2003, on or before April 1, 2003. Any renewal application filed with the commissioner after September first, or in the case of a license that expires on April 30, 2003, after April 1, 2003, shall be accompanied by a one-hundred-dollar late fee and any such filing shall be deemed to be timely and sufficient for purposes of subsection (b) of

Senate Bill No. 1219

section 4-182. Whenever an application for a license, other than a renewal application, is filed under sections 36a-800 to 36a-810, inclusive, as amended by this act, by any person who was a licensee under said sections 36a-800 to 36a-810, inclusive, as amended by this act, and whose license expired less than sixty days prior to the date such application was filed, such application shall be accompanied by a one-hundred-dollar processing fee in addition to the application fee. To further the enforcement of this section and to determine the eligibility of any person holding a license, the commissioner may, as often as the commissioner deems necessary, examine the licensee's books and records, and may, at any time, require the licensee to submit such a financial statement for the examination of the commissioner, so that the commissioner may determine whether the licensee is financially responsible to carry on a consumer collection agency business within the intents and purposes of sections 36a-800 to 36a-810, inclusive, as amended by this act. Any financial statement submitted by a licensee shall be confidential and shall not be a public record unless introduced in evidence at a hearing conducted by the commissioner.

Sec. 16. Subsection (b) of section 36a-804 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(b) Whenever it appears to the commissioner that any person has violated, is violating or is about to violate any of the provisions of sections 36a-800 to 36a-810, inclusive, as amended by this act, or any regulation adopted pursuant thereto, or the licensee or any proprietor, director, officer, member, partner, shareholder, trustee, employee or agent of such licensee has committed any fraud, made any misrepresentation or misappropriated funds, the commissioner may take action against such person or licensee in accordance with [section] sections 36a-50 and 36a-52.

Senate Bill No. 1219

Sec. 17. Section 49-2b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

The Banking Commissioner shall adopt such regulations, in accordance with chapter 54, as are necessary to carry out the provisions of section 49-2a and shall [furnish forms to mortgagees for the purpose of reporting] specify the form mortgagees may use to report to mortgagors the interest due under the provisions of section 49-2a.

Sec. 18. Section 49-31j of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

The Banking Commissioner shall adopt such regulations, in accordance with chapter 54, as the commissioner deems necessary specifying (1) the manner in which a composite interest rate shall be computed for the new mortgage debt pursuant to subsection (c) of section 49-31i, [and] (2) the method or standard by which prevailing market rates of interest are to be determined, and (3) a form a lender may use to give notice pursuant to section 49-31e to a homeowner of the availability of the provisions of sections 49-31d to 49-31i, inclusive.

Approved May 17, 2005